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February 25, 2013

BY ELECTRONIC DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: Progeny LMS, LLC
Permitted Written *Ex Parte* Presentation
WT Docket No. 11-49

Dear Ms. Dortch:

Progeny LMS, LLC ("Progeny"), by its attorneys, herein briefly addresses the letters filed in this docket by the National Association of Regulatory Utility Commissioners ("NARUC"), dated February 21, 2013,[1] and by the Utilities Telecom Council ("UTC"), dated February 20, 2013.[2] Both letters note that during the recent NARUC Winter Meeting a panel discussion was held regarding the operation of Progeny's E911 position location service in the 902-928 MHz band. Progeny agreed to participate on the panel to educate NARUC members regarding the critical public safety need for Progeny's service and the capabilities of Progeny's network to share the upper portion of the 902-928 MHz band with unlicensed spectrum users.

As expressed in the UTC letter, much of the panel discussion focused on joint tests that were conducted with Itron, Inc., a manufacturer of utility meter reading equipment.[3] UTC claims that Itron does not make supervisory control and data acquisition ("SCADA") equipment for utilities and, because

[1] Letter from James Bradford Ramsey, NARUC General Counsel, to The Honorable Julius Genachowski, Chairman, Federal Communications Commission, WT Docket No. 11-49 (Feb. 21, 2013) ("*NARUC Letter*").

[2] Letter from Brett Kilbourne, Utilities Telecom Council, to Marlene H. Dortch, Secretary, Federal Communications Commission, Notice of *Ex Parte* Presentation, WT Docket No. 11-49 (Feb. 20, 2013) ("*UTC Letter*").

[3] *See id.* at 2.

of this, Progeny's tests with Itron did not address the potential for interference to SCADA systems.[4] The NARUC letter also speculates that prior tests involving Progeny's system may not have focused sufficiently on SCADA equipment.[5]

Progeny, of course, also conducted joint tests with Landis+Gyr Corporation, which does manufacture two-way SCADA equipment using the same types of radio transmitters that were employed in the joint tests. SCADA equipment manufactured by Landis+Gyr and other companies almost uniformly employ frequency hopping spread spectrum ("FHSS") and frequency-shift keying ("FSK") modulation using a substantial number of small bandwidth channels (typically 100 kHz to 300 kHz) with minimal dwell time on any frequency. Progeny's tests with such devices have consistently shown that Progeny's network will not interfere with such devices.

The use of FHSS technology greatly minimizes the potential for a SCADA transmission to employ the same frequency as a nearby Progeny beacon at exactly the same time and, in those rare cases when a conflict might occur, the verification and retransmission capabilities of two-way SCADA devices ensures that any packet errors that might result are either duplicative of packets sent through sequential transmissions or are promptly resent on alternate frequencies. For these reasons, the results of the Landis+Gyr joint tests showed virtually no data throughput impact to Landis+Gyr's two-way equipment and clearly demonstrated that Progeny's E911 position location service can operate compatibly with unlicensed SCADA networks.

Despite this fact, NARUC adopted a resolution requesting that additional testing be conducted on Progeny's network.[6] The NARUC resolution also urged the Commission to adopt in Part 90 of its rules technical requirements for the operation of M-LMS networks.[7] The Commission, of course, already has in place stringent technical requirements for M-LMS networks (including power and out-of-band emissions limits) and Progeny's network complies with all of these requirements. Further, an exhaustive amount of testing has already been conducted on Progeny's network during the past 18 months and the results of those tests clearly show that Progeny's service will not cause unacceptable levels of interference to Part 15 devices, including Part 15 devices used by utilities to operate SCADA systems.

Despite these facts, UTC incorrectly represents in its letter that Progeny agreed to undertake further joint testing with PG&E or with other UTC members.[8] Progeny made no such agreement because further testing is clearly unnecessary. In addition to the comprehensive tests that have already been conducted, Progeny has been operating a fully deployed position location network in the San Francisco Bay Area, portions of which have been in operation for three years without resulting in interference to Part 15 devices. Progeny has also been operating for at least six months initial M-LMS networks in an

[4] *Id.* UTC's claim that Itron does not manufacture SCADA equipment appears to be contradicted by Itron's Internet website.

[5] *See NARUC Letter* at 1 (claiming that the Progeny tests "focused on AMI systems rather than the more critical SCADA networks").

[6] *See id.* at 2.

[7] *See id.*

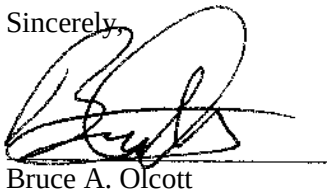
[8] *See UTC Letter* at 2.

additional 39 major economic areas, also without resulting in interference to Part 15 devices. Given these facts, a third round of testing would serve no constructive purpose.

Further, additional testing could delay the availability of Progeny's E911 position location to emergency first responders, which face a rapidly growing need for Progeny's service to help identify the location of wireless callers in need of emergency assistance. Therefore, any further testing would not serve the public interest and could ultimately harm public safety.

Thank you for your attention to this matter. Please contact the undersigned if you have any questions.

Sincerely,



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